

Human Rights Council resolution ‘Contribution of the Human Rights Council with regard to the human rights implications of drug policy’: Analysis and implications

Introduction

On 4 April 2023, the Human Rights Council adopted a resolution under the title ‘Human Rights Council contribution with regard to the human rights implications of drug policy’.¹ The key objective of the resolution was to ensure that UN human rights entities engaged meaningfully in the mid-term review of the 2019 Ministerial Declaration on drugs,² set to be held at the 67th session of the UN Commission on Narcotic Drugs (CND) in Vienna in March 2024.³

The 2024 mid-term review is the next key moment for the international community to take stock of progress made in international drug policy and pave the way forward for the next five years. Ensuring that the human rights dimension of drug policy is as prominent as possible will therefore be critical in this regard. The Human Rights Council resolution sets the framework for the contribution of the UN human rights system

to the mid-term review by requesting the Office of the United Nations High Commissioner for Human Rights (OHCHR) to produce a report on the human rights implications of drug policy, and calling for a panel discussion on the issue at the Human Rights Council.

The resolution also represents the most ambitious UN political document on the human rights dimension of drug policy to date. It contains a number of significant gains in terms of progress on UN agreed language, demonstrating that UN bodies outside of Vienna are becoming spaces for a more productive and constructive conversation on drug policies.

An ambitious strategy for the OHCHR report and for the thematic Human Rights Council panel discussion on the human rights implications of drug policy is now necessary to ensure that they have an impact on the mid-term review.



Credit: UN Photo / Jean-Marc Ferré

Session of the Human Rights Council

Key gains from the resolution

Racial discrimination and drug policy

The resolution contains the strongest commitment to date on addressing the discriminatory impact of drug policy, particularly in terms of racial discrimination. In particular, the resolution urges States to ‘adopt a systemic approach to preventing and eliminating racial discrimination at all stages of the development, implementation, monitoring and evaluation of drug policies and programmes’ and underlines that states should reform ‘drug-related policies, laws and practices with discriminatory outcomes’, including ‘discriminatory practices in the arrest and detention of members of vulnerable and marginalized groups’ (a clear reference to drug-related stop and search).

Explicit support for harm reduction

The resolution includes for the first time an explicit and supportive reference to ‘harm reduction’ in a UN political document on drug policy. So far, the only documents that included the terms ‘harm reduction’ were the Political Declarations on HIV and AIDS, as well as the 2021 Human Rights Council resolution 47/14 on human rights in the context of HIV and AIDS.⁴ The gain here is triple: 1- it is the first time that the term is included outside the context of HIV and AIDS; 2- it is the first time that the term is mentioned within the framework of the right to health, alongside other health responses; and 3- support for harm reduction is not qualified by subjecting it to national legislation, or to clauses such as ‘as appropriate’.

Asserting the role of the UN human rights system in drug policy debates

The resolution renews the interest of the UN human rights system in global drug policy debates, particularly by giving the OHCHR a mandate to produce a report on the human rights challenges of the world drug situation, and by including a thematic intersessional panel that will be held at the Human Rights Council between October 2023 and February 2024. The OHCHR have requested a budget of approximately USD 140,000 to conduct

these activities. The modalities resolution for the mid-term review adopted by CND in March 2023 encourages the contributions of ‘relevant United Nations entities’ in the process, without mentioning any one in particular. The Human Rights Council is the first institution to take the CND by its word and claim a role in the review for itself – a sign of the growing importance of human rights in global drug policy debates. It is essential that like-minded Member States, civil society and community organisations set up a strategy to ensure that the report and panel are a catalysing moment for the involvement of the human rights system with drug policies, and an influential contribution to the mid-term review of the 2019 Ministerial Declaration.

Protecting traditional uses by Indigenous Peoples

The resolution consolidates the precedent set by the UN General Assembly resolution 77/238⁵ by recognising that Indigenous Peoples have the right to their traditional medicines and to maintain their health practices within the context of a drug resolution. The difference is that this time the language is adopted by consensus and no delegation called for a vote on this paragraph.

Encouraging further contributions by the UN human rights system

The resolution acknowledges the contributions of the UN human rights system to drug policy, including the latest reports by the OHCHR and the Working Group on Arbitrary Detention,⁶ and encourages them to continue their work on the human rights implications of drug policy including engaging with the Commission on Narcotic Drugs. The International Guidelines on Human Rights and Drug Policy⁷ are also acknowledged, reinforcing their status as the international human rights standard on drug policy, and hopefully boosting their use in regional and national debates.

Focus on the human rights impacts of drug policies

The title of the resolution departs from precedents at the UN General Assembly and the Human Rights Council by placing the focus on the

human rights implications of drug policies, rather than on the ‘world drug problem’. This is a recognition that drug policies themselves can have an impact on human rights, and that the UN system and particularly the human rights bodies have a mandate to address them.

Limitations of the resolution

No standing mandate for the OHCHR

The resolution has achieved the main aim of the core group of Member States which led on the negotiations: which was to progress UN agreed language on human rights and drug policy, and mandate a contribute by the OHCHR to the mid-term review of the 2019 Ministerial Declaration. However, the original goal of civil society was to provide the OHCHR with a standing request to report periodically on the human rights impacts of drug policy. While it is not disputed that the human rights impacts of drug policy fall clearly within the OHCHR mandate, this would have given political and financial stability to the Office’s work on this topic, and would have cemented drug policy as a thematic focus of the Human Rights Council. This goal still remains to be achieved.

Reintroduction of language on a ‘society free of drug abuse’

In the process of adopting the resolution, two paragraphs tabled respectively by Saudi Arabia and Egypt were inserted in the text. One concerns the role of state sovereignty in international law, and the other – concerningly – introduces, again, the goal of achieving a ‘society free of drug abuse’. Removing this language was one of the key achievements of the UN General Assembly resolution 77/238, so it is regrettable that this gain was not consolidated in the Human Rights Council resolution. However, the vote on the amendment revealed a divided Council, with 25 votes in favour of the amendment, 18 against, and 4 abstentions.

Use of stigmatising terminology

The first version of the resolution included significant gains in terminology referring to the hu-

man rights dimension of drug policy, including person-centred language and the use of the term ‘world drug situation’ (instead of the traditional ‘world drug problem’). These were discarded in negotiations throughout the text, and replaced with standard but stigmatising UN language such as ‘world drug problem’ and ‘drug abuse’. Constant references to the ‘principal role’ of CND on drug-related matters are scattered throughout the resolution, as is a reference to the eradication targets of the 2009 Political Declaration.⁸

Status of the resolution

Adopted without a vote

The resolution was adopted by the Human Rights Council without a vote. This is particularly positive because the last Human Rights Council resolution on drugs in 2018⁹ was adopted with a vote, even though it was less ambitious than this one in both substantive and operative terms. This means that the resolution now constitutes agreed language on drugs. However, a few delegations took the floor to dissociate themselves from the final text, arguing that they are not bound by it. These include China, Egypt, and the Gulf Cooperation Council countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates). Given this caveat, we will need to wait and see whether the progressive language included in the resolution can be brought forth and accepted by all delegates as consensus-based in future negotiations.

Vote on amendments

A number of delegations including the Russian Federation and mostly Arab and Asian countries submitted amendments to the text tabled by the core group. Members of the Council voted separately on each of these amendments, in some cases changing the sense of the vote depending on the content of the amendment. This brought about a substantive debate on drug policy and revealed nuanced positions, as the examples below show. In future years, the drug policy movement would do well to build relationships with a broader and more diverse range of delegations in Geneva.

Vote on amendment L.50, seeking to remove the explicit support for harm reduction

AMENDMENT L.50 - Amendment to AMENDMENT L.50 (not only related)

NO	YES	ABST	NO	YES	ABST	NO	YES	ABST
NO	AFGHANISTAN	ABST	ARMENIA	YES	ABST	AFGHANISTAN	NO	AFGHANISTAN
YES	BANGLADESH	NO	BELGIUM	NO	NO	BANGLADESH	NO	BANGLADESH
NO	BELGIUM	NO	BULGARIA	YES	NO	BELGIUM	NO	BELGIUM
ABST	BULGARIA	NO	CANADA	NO	NO	BULGARIA	NO	BULGARIA
ABST	CANADA	NO	CHINA	NO	ABST	CANADA	NO	CANADA
NO	CHINA	YES	CZECHIA	NO	NO	CHINA	NO	CHINA
YES	CZECHIA	NO	EUROPEAN UNION	YES	NO	CZECHIA	NO	CZECHIA
NO	EUROPEAN UNION	NO	FINLAND	NO	NO	EUROPEAN UNION	NO	EUROPEAN UNION
ABST	FINLAND	NO	FRANCE	NO	NO	FINLAND	NO	FINLAND
YES	FRANCE	ABST	GERMANY	YES	NO	FRANCE	NO	FRANCE
NO	GERMANY	NO	HUNGARY	NO	NO	GERMANY	NO	GERMANY
YES	HUNGARY	NO	INDIA	NO	NO	HUNGARY	NO	HUNGARY
NO	INDIA	NO	ITALY	NO	NO	INDIA	NO	INDIA
YES	ITALY	NO	JAPAN	NO	NO	ITALY	NO	ITALY
NO	JAPAN	NO	KAZAKHSTAN	NO	NO	JAPAN	NO	JAPAN
NO	KAZAKHSTAN	ABST	KOREA (REP.)	NO	NO	KAZAKHSTAN	NO	KAZAKHSTAN
NO	KOREA (REP.)	NO	LEBANON	NO	NO	KOREA (REP.)	NO	KOREA (REP.)
ABST	LEBANON	NO	LITHUANIA	NO	NO	LEBANON	NO	LEBANON
YES	LITHUANIA	ABST	LUXEMBOURG	NO	NO	LITHUANIA	NO	LITHUANIA
NO	LUXEMBOURG	NO	MEXICO	NO	NO	LUXEMBOURG	NO	LUXEMBOURG
ABST	MEXICO	NO	MONTENEGRO	NO	NO	MEXICO	NO	MEXICO
YES	MONTENEGRO	ABST	NETHERLANDS	YES	NO	MONTENEGRO	NO	MONTENEGRO
NO	NETHERLANDS	NO	NEW ZEALAND	NO	NO	NETHERLANDS	NO	NETHERLANDS
NO	NEW ZEALAND	ABST	ROMANIA	NO	NO	NEW ZEALAND	NO	NEW ZEALAND
NO	ROMANIA	NO	RUSSIA	NO	NO	ROMANIA	NO	ROMANIA
NO	RUSSIA	ABST	SLOVAKIA	NO	NO	RUSSIA	NO	RUSSIA
NO	SLOVAKIA	NO	SLOVENIA	NO	NO	SLOVAKIA	NO	SLOVAKIA
NO	SLOVENIA	ABST	UKRAINE	NO	NO	SLOVENIA	NO	SLOVENIA
NO	UKRAINE	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	NO	UKRAINE	NO	UKRAINE
NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	UNITED STATES OF AMERICA	NO	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
NO	UNITED STATES OF AMERICA	NO	UZBEKISTAN	NO	NO	UNITED STATES OF AMERICA	NO	UNITED STATES OF AMERICA
NO	UZBEKISTAN	ABST	Vietnam	NO	NO	UZBEKISTAN	NO	UZBEKISTAN
NO	Vietnam	NO				Vietnam	NO	Vietnam

Vote on amendment L.59, seeking to introduce language on a ‘society free of drug abuse’

AMENDMENT L.59 - Amendment to AMENDMENT L.59 (not only related and amended)

NO	YES	ABST	NO	YES	ABST	NO	YES	ABST
NO	AFGHANISTAN	ABST	ARMENIA	YES	ABST	AFGHANISTAN	NO	AFGHANISTAN
NO	ARMENIA	YES	BANGLADESH	NO	NO	ARMENIA	NO	ARMENIA
NO	BANGLADESH	NO	BELGIUM	NO	NO	BANGLADESH	NO	BANGLADESH
NO	BELGIUM	NO	BULGARIA	YES	NO	BELGIUM	NO	BELGIUM
NO	BULGARIA	YES	CANADA	NO	NO	BULGARIA	NO	BULGARIA
ABST	CANADA	NO	CHINA	NO	NO	CANADA	NO	CANADA
NO	CHINA	NO	CZECHIA	NO	NO	CHINA	NO	CHINA
NO	CZECHIA	NO	EUROPEAN UNION	YES	NO	CZECHIA	NO	CZECHIA
NO	EUROPEAN UNION	NO	FINLAND	NO	NO	EUROPEAN UNION	NO	EUROPEAN UNION
ABST	FINLAND	NO	FRANCE	NO	NO	FINLAND	NO	FINLAND
NO	FRANCE	NO	GERMANY	NO	NO	FRANCE	NO	FRANCE
NO	GERMANY	NO	HUNGARY	NO	NO	GERMANY	NO	GERMANY
NO	HUNGARY	NO	INDIA	NO	NO	HUNGARY	NO	HUNGARY
NO	INDIA	NO	ITALY	NO	NO	INDIA	NO	INDIA
NO	ITALY	NO	JAPAN	NO	NO	ITALY	NO	ITALY
NO	JAPAN	NO	KAZAKHSTAN	NO	NO	JAPAN	NO	JAPAN
NO	KAZAKHSTAN	ABST	KOREA (REP.)	NO	NO	KAZAKHSTAN	NO	KAZAKHSTAN
NO	KOREA (REP.)	NO	LEBANON	NO	NO	KOREA (REP.)	NO	KOREA (REP.)
NO	LEBANON	NO	LITHUANIA	NO	NO	LEBANON	NO	LEBANON
NO	LITHUANIA	ABST	LUXEMBOURG	NO	NO	LITHUANIA	NO	LITHUANIA
NO	LUXEMBOURG	NO	MEXICO	NO	NO	LUXEMBOURG	NO	LUXEMBOURG
NO	MEXICO	NO	MONTENEGRO	NO	NO	MEXICO	NO	MEXICO
NO	MONTENEGRO	YES	NETHERLANDS	YES	NO	MONTENEGRO	NO	MONTENEGRO
NO	NETHERLANDS	YES	NEW ZEALAND	NO	NO	NETHERLANDS	NO	NETHERLANDS
NO	NEW ZEALAND	NO	ROMANIA	NO	NO	NEW ZEALAND	NO	NEW ZEALAND
NO	ROMANIA	NO	RUSSIA	NO	NO	ROMANIA	NO	ROMANIA
NO	RUSSIA	ABST	SLOVAKIA	NO	NO	RUSSIA	NO	RUSSIA
NO	SLOVAKIA	NO	SLOVENIA	NO	NO	SLOVAKIA	NO	SLOVAKIA
NO	SLOVENIA	ABST	UKRAINE	NO	NO	SLOVENIA	NO	SLOVENIA
NO	UKRAINE	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	NO	UKRAINE	NO	UKRAINE
NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	UNITED STATES OF AMERICA	NO	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
NO	UNITED STATES OF AMERICA	NO	UZBEKISTAN	NO	NO	UNITED STATES OF AMERICA	NO	UNITED STATES OF AMERICA
NO	UZBEKISTAN	ABST	Vietnam	NO	NO	UZBEKISTAN	NO	UZBEKISTAN
NO	Vietnam	NO				Vietnam	NO	Vietnam

Vote on amendment L.60, seeking to eliminate the thematic intersessional panel

YES	NO	ABST	MISSING	ABST	MISSING
YES	ARGENTINA	YES	GAMBIA	YES	INDONESIA
YES	BRAZIL	NO	Ghana	NO	IRAN (Islamic Republic of)
NO	CHINA	NO	Guatemala	YES	ISRAEL
ABST	COLOMBIA	NO	HONDURAS	NO	JAMAICA
NO	Cuba (People's Republic of)	ABST	India	YES	Kenya
YES	DOMINICAN REPUBLIC	ABST	Cyprus	YES	LIBERIA
NO	CHILE	ABST	KYRGYZSTAN	NO	Madagascar
YES	CHINA	NO	LITHUANIA	YES	Mali
NO	COSTA RICA	NO	LUKSEMBURG	YES	Maldives
ABST	COTE D'IVOIRE	ABST	Malawi	YES	Maldives
YES	CUBA	YES	MALAYSIA	NO	MAURITIUS
NO	CZECHIA	YES	MALDIVES	NO	NETHERLANDS
YES	DEUTSCHLAND	NO	SIERRA LEONE	ABST	NEW ZEALAND
NO	DENMARK	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	YES	NORWAY
NO	FRANCE	YES	MOROCCO		

Acknowledgements

This advocacy note was drafted by Adria Cots Fernandez with comments and contributions from Ann Fordham and Marie Nougier.

Endnotes

1. Available here: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/52/L.22/Rev.1
2. Available here: Commission on Narcotic Drugs (2019), Ministerial declaration on strengthening our actions at the national, regional and international levels to accelerate the implementation of our joint commitments to address and counter the world drug problem, https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf
3. For more information, see the modalities resolution here: Commission on Narcotic Drugs (2023), Preparations for the midterm review to be held during the sixty-seventh session of the Commission on Narcotic Drugs, in 2024, E/CN.7/2023/L.2/Rev.1, <https://undocs.org/Home/Mobile?FinalSymbol=E%2FCN.7%2F2023%2FL.2%2FRev.1&Language=E&DeviceType=Desktop&LangRequested=False>
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5. Available here: UN General Assembly (December 2022), Addressing and countering the world drug problem through a comprehensive, integrated and balanced approach, A/RES/77/238, <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F77%2F238&Language=E&DeviceType=Desktop&LangRequested=False>
6. See: Working Group on Arbitrary Detention (2021), Study on arbitrary detention relating to drug policies, A/HRC/47/40, <https://www.ohchr.org/en/calls-for-input/study-arbitrary-detention-relating-drug-policies>
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About this advocacy note

In this advocacy note, IDPC highlights the major gains from the adoption of the Human Rights Council resolution on human rights and drugs in April 2023, and its implications for UN drug policy processes going forward.

International Drug Policy Consortium

61 Mansell Street
London E1 8AN, United Kingdom

Email: contact@idpc.net

Website: www.idpc.net

About IDPC

The International Drug Policy Consortium is a global network of NGOs that come together to promote drug policies that advance social justice and human rights. IDPC's mission is to amplify and strengthen a diverse global movement to repair the harms caused by punitive drug policies, and to promote just responses.

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Report design by Mathew Birch - mathew@mathewbirch.com

Funded, in part, by:



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